

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 471

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Leonard Lee Rawson

AN ACT

RELATING TO MOTOR VEHICLES; REQUIRING PARENTAL INVOLVEMENT IN
RESOLUTION OF MOTOR VEHICLE CODE VIOLATIONS AND MUNICIPAL
TRAFFIC CODE VIOLATIONS BY CHILDREN; AMENDING THE PENALTIES FOR
DRIVING ON A SUSPENDED LICENSE AND DRIVING ON A REVOKED
LICENSE; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 32A-2-29 NMSA 1978 (being Laws 1993,
Chapter 77, Section 58) is amended to read:

"32A-2-29. MOTOR VEHICLE CODE VIOLATIONS. --

A. The municipal, magistrate or metropolitan court
shall have original exclusive jurisdiction over all Motor
Vehicle Code or municipal traffic code violations when the
person alleged to have committed the violation is a child, with
the exception of those violations contained in Paragraph (1) of

underscored material = new
[bracketed material] = delete

1 Subsection A of Section [~~32-2-3~~] 32A-2-3 NMSA 1978 and all
2 traffic offenses alleged to have been committed by the child
3 arising out of the same occurrence pursuant to Subsection B of
4 this section.

5 B. If the [~~children's~~] court acquires jurisdiction
6 over a child pursuant to any of those Motor Vehicle Code
7 violations contained in Paragraph (1) of Subsection A of
8 Section [~~32-2-3~~] 32A-2-3 NMSA 1978, it shall have jurisdiction
9 over all traffic offenses alleged to have been committed by the
10 child arising out of the same occurrence.

11 C. A child shall not sign a penalty assessment for
12 a traffic offense. Notice of a traffic offense committed by a
13 child and a scheduled hearing date shall be mailed by the court
14 exercising jurisdiction over the offense to the parent,
15 guardian or custodian of the child. The court shall not hear
16 the case if the parent, guardian or custodian is not present
17 for the hearing and shall reschedule the hearing and subpoena
18 the parent, guardian or custodian to appear at the rescheduled
19 hearing.

20 [~~C.~~] D. All traffic offenses [~~which the~~] that a
21 child is found to have committed by the municipal, magistrate
22 or metropolitan court or for which the child is adjudicated
23 delinquent by the children's court shall be subject to the
24 reporting requirements and the suspension and revocation
25 provisions of the Motor Vehicle Code and shall not be subject

underscored material = new
[bracketed material] = delete

1 to the confidentiality provisions of the Delinquency Act.

2 ~~[D-]~~ E. No tribunal may incarcerate any child who
3 has been found guilty of any Motor Vehicle Code or municipal
4 traffic code violations without first securing the approval of
5 the ~~[children's]~~ court. A child may be offered the opportunity
6 to work off fines or court fees that a judge may waive through
7 community service. In lieu of imposing a fine or sentencing a
8 child to jail, a judge may sentence the child to perform
9 community service. A child found guilty of a traffic offense
10 pursuant to the Motor Vehicle Code or a municipal ordinance
11 shall be placed on unsupervised probation for no less than one
12 hundred eighty days. A child shall be required to return to
13 court to provide evidence of successful completion of the
14 community service to which he was sentenced. A judge may
15 provide that a child cited for two traffic offenses arising
16 from the same occurrence shall serve his community service
17 sentences concurrently or consecutively, depending on the
18 nature of the offense.

19 F. A child found guilty of an offense pursuant to
20 Section 66-8-113, 66-8-114 or 66-8-115 NMSA 1978 or similar
21 municipal ordinances; of exceeding the speed limit set by state
22 law or municipal ordinance by twenty miles per hour or more; or
23 of driving on a suspended or revoked license or otherwise
24 without a license shall be required by the court to complete a
25 driver safety course."

. 142279. 1

underscored material = new
[bracketed material] = delete

1 Section 2. Section 66-5-39 NMSA 1978 (being Laws 1978,
2 Chapter 35, Section 261, as amended) is amended to read:

3 "66-5-39. DRIVING WHILE LICENSE SUSPENDED- - [~~OR REVOKED--~~
4 ~~PROVIDING~~] PENALTIES. - -

5 A. Any person who drives a motor vehicle on [~~any~~] a
6 public highway of this state at a time when his privilege to do
7 so is suspended [~~or revoked~~] and who knows or should have known
8 that his license was suspended [~~or revoked~~] is guilty of a
9 petty misdemeanor and shall be charged with a violation of this
10 section.

11 B. Upon conviction [~~the~~] pursuant to this section,
12 a person shall be punished, notwithstanding the provisions of
13 Section 31-18-13 NMSA 1978, by [~~imprisonment for not less than~~
14 ~~four days or more than three hundred sixty-four days or~~
15 ~~participation for an equivalent period of time in a certified~~
16 ~~alternative sentencing program, and there may be imposed in~~
17 ~~addition a fine of not more than one thousand dollars (\$1,000)]~~
18 a fine of not more than three hundred dollars (\$300) and shall
19 be subject to a suspension of the person's privilege to drive
20 for a period not to exceed ninety days.

21 C. Upon a second or subsequent conviction within a
22 twelve-month period of driving a motor vehicle while the
23 person's privilege to drive has been suspended, the violator
24 shall be punished by imprisonment of not less than two days or
25 more than ninety days or participation in a certified

. 142279. 1

1 alternative sentencing program for no less than two days or no
2 more than ninety days. In addition to any other penalty
3 imposed, the court may impose a fine of not less than three
4 hundred dollars (\$300) or more than six hundred dollars (\$600).

5 D. When a person pays any or all of the cost of
6 participating in a certified alternative sentencing program,
7 the court may apply that payment as a deduction to any fine
8 imposed by the court. [Notwithstanding any other provision of
9 law for suspension or deferment of execution of a sentence, if
10 the person's privilege to drive was revoked for driving while
11 under the influence of intoxicating liquor or drugs or a
12 violation of the Implied Consent Act, upon conviction under
13 this section, that person shall be punished by imprisonment for
14 not less than seven consecutive days and shall be fined not
15 less than three hundred dollars (\$300) or not more than one
16 thousand dollars (\$1,000) and the fine and imprisonment shall
17 not be suspended, deferred or taken under advisement. No other
18 disposition by plea of guilty to any other charge in
19 satisfaction of a charge under this section shall be authorized
20 if the person's privilege to drive was revoked for driving
21 while under the influence of intoxicating liquor or drugs or a
22 violation of the Implied Consent Act. Any]

23 E. A municipal ordinance prohibiting driving with a
24 suspended [or revoked] license shall provide penalties no less
25 stringent than provided in this section.

. 142279. 1

underscored material = new
[bracketed material] = delete

1 ~~[B. In addition to any other penalties imposed~~
2 ~~pursuant to the provisions of this section, when a person is~~
3 ~~convicted pursuant to the provisions of this section or a~~
4 ~~municipal ordinance that prohibits driving on a suspended or~~
5 ~~revoked license, the motor vehicle the person was driving shall~~
6 ~~be immobilized by an immobilization device for thirty days,~~
7 ~~unless immobilization of the motor vehicle poses an imminent~~
8 ~~danger to the health, safety or employment of the convicted~~
9 ~~person's immediate family or the family of the owner of the~~
10 ~~motor vehicle. The convicted person shall bear the cost of~~
11 ~~immobilizing the motor vehicle.~~

12 ~~C.]~~ F. The division, upon receiving a record of the
13 conviction of any person under this section upon a charge of
14 driving a vehicle while the license of the person was
15 suspended, shall extend the period of suspension for an
16 additional [like] period [and if the conviction was upon a
17 charge of driving while a license was revoked, the division
18 shall not issue a new license for an additional period of one
19 year from the date the person would otherwise have been
20 entitled to apply for a new license] equal to the period of the
21 current suspension. "

22 Section 3. A new section of the Motor Vehicle Code,
23 Section 66-5-39.1 NMSA 1978, is enacted to read:

24 "66-5-39.1. [NEW MATERIAL] DRIVING WHILE LICENSE IS
25 REVOKED- - PENALTIES. - -

. 142279. 1

underscored material = new
[bracketed material] = delete

1 A. A person who drives a motor vehicle on a public
2 highway of this state at a time when his privilege to do so is
3 revoked and who knows or should have known that his license was
4 revoked is guilty of a misdemeanor and shall be charged with a
5 violation of this section.

6 B. Notwithstanding any other provision of law for
7 suspension or deferment of execution of a sentence, if a
8 person's privilege to drive was revoked for driving while under
9 the influence of intoxicating liquor or drugs or a violation of
10 the Implied Consent Act, upon conviction pursuant to this
11 section, that person shall be punished by imprisonment for not
12 less than seven consecutive days and shall be fined not less
13 than three hundred dollars (\$300) or not more than one thousand
14 dollars (\$1,000). The fine and imprisonment shall not be
15 suspended, deferred or taken under advisement. No other
16 disposition by plea of guilty to any other charge in
17 satisfaction of a charge pursuant to this section shall be
18 authorized if the person's privilege to drive was revoked for
19 driving while under the influence of intoxicating liquor or
20 drugs or a violation of the Implied Consent Act.

21 C. A municipal ordinance prohibiting driving with a
22 revoked license shall provide penalties no less stringent than
23 provided in this section.

24 D. In addition to other penalties imposed pursuant
25 to this section, when a person is convicted pursuant to the

underscored material = new
[bracketed material] = delete

1 provisions of this section or a municipal ordinance that
2 prohibits a person from driving while his driving privilege is
3 revoked, the motor vehicle the person was driving shall be
4 immobilized by an immobilization device for thirty days, unless
5 immobilization of the motor vehicle poses an imminent danger to
6 the health, safety or employment of the convicted person's
7 immediate family or the family of the owners of the motor
8 vehicle. The convicted person shall bear the cost of the
9 immobilization of the motor vehicle.

10 E. The division shall not issue a new license for an
11 additional period of one year from the date on which a person
12 would otherwise be entitled to apply for a new license, if the
13 person is convicted of driving while his privilege to drive is
14 revoked pursuant to this section. "

15 Section 4. Section 66-8-117 NMSA 1978 (being Laws 1978,
16 Chapter 35, Section 525, as amended) is amended to read:

17 "66-8-117. PENALTY ASSESSMENT MISDEMEANORS-- OPTION--
18 EFFECT. --

19 A. Unless a warning notice is given, at the time of
20 making an arrest for ~~[any]~~ a penalty assessment misdemeanor the
21 arresting officer shall offer the alleged violator the option of
22 accepting a penalty assessment if the violator is eighteen years
23 of age or older. The violator's signature on the penalty
24 assessment notice constitutes an acknowledgment of guilt of the
25 offense stated in the notice. An alleged violator who is under

underscored material = new
[bracketed material] = delete

1 the age of eighteen shall appear in court for a hearing on the
2 offense and the parent, guardian or custodian of the alleged
3 violator shall appear in court with the alleged violator.

4 B. Except for penalty assessments made under a
5 municipal program authorized by Section 66-8-130 NMSA 1978,
6 payment of any penalty assessment must be made by mail to the
7 division within thirty days from the date of arrest. Payments
8 of penalty assessments are timely if postmarked within thirty
9 days from the date of arrest. The division may issue a receipt
10 when a penalty assessment is paid by currency, but checks
11 tendered by the violator upon which payment is received are
12 sufficient receipt.

13 C. [~~No~~] A record of any penalty assessment payment
14 is not admissible as evidence in any court in any civil action."

15 Section 5. EFFECTIVE DATE. --The effective date of the
16 provisions of this act is July 1, 2003.